

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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In the Matter of )  
 )  
Amendment of Section 73.202 )  
Table of Allotments )  
For FM Broadcast Stations. )  
(Shafter, California) )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MM Docket No. 02-58  
RM-10415

To: Assistant Chief, Audio Division, Media Bureau

**COUNTERPROPOSAL AND COMMENTS OF  
CLEAR CHANNEL BROADCASTING LICENSES, INC.**

Clear Channel Broadcasting Licenses, Inc. ("CCBL"), by its attorneys, respectfully submits this counterproposal and comments, which, as detailed in the attached engineering exhibit, proposes the allotment of Channel 224A to Buttonwillow, California (the "Counterproposal"). Unlike the initial proposal in this proceeding, which would substitute a different channel – 226A – for an existing Class A allotment – 282A – at Shafter, California (the "Initial Proposal"), adoption of the Counterproposal would result in a first local transmission service being provided to the independent community of Buttonwillow, California. Because the Counterproposal satisfies the third allotment priority under the Commission's established allocations precedent, while the Initial Proposal, at most, satisfies only the fourth, Commission precedent and the public interest compels adoption of the Counterproposal.

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## Background

Buttonwillow, California, is a census-designated community with a 2000 Census population of 1,266 residents. Buttonwillow is the home of Buttonwillow Union Elementary, Buttonwillow Library and the Buttonwillow Fire Department. Buttonwillow has its own post office and zip code (93206), as well as its own commercial, medical and religious establishments. 1/ But Buttonwillow, which is not part of any urbanized area, has no broadcast transmission service of its own.

Under the existing FM Table of Allotments, Channel 224A can be assigned to Buttonwillow pursuant to the technical specifications detailed in the attached Engineering Exhibit. 2/ However, on December 28, 2001, American General Media of Texas, Inc. ("AGM") filed a petition for rule making (the "Petition") to change the channel, but not the class or community of license, of KCOO(FM), Shafter, California, 3/ from Channel 282A to Channel 226A (the "Petition"). 4/ AGM's proposed channel change for the Shafter allotment is mutually exclusive with the allotment of Channel 224A to Buttonwillow. 5/

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1/ See Exhibit 1.

2/ See Exhibit 2 ("Engineering Exhibit") at 1.

3/ The call sign of KCOO(FM) has since been changed to KRFR(FM). For convenience, the station will be referred to by the former call sign, KCOO.

4/ On February 12, 2002, AGM filed a supplement to the Petition (the "Supplement"), which requested immediate action on the proposed channel change because of the alleged risk that AGM eventually would lose access to KCOO's current transmission site, and that AGM otherwise would be unable to locate a fully-spaced transmitter site that would enable it to continue to operate on

## **The Commission's Allotment Priorities and Precedent Compel Adoption of the Counterproposal**

The Commission's well-established allotment criteria rank allotment proposals in the following order of priority:

- 1) Proposals that provide a first fulltime aural reception service to a community;
- 2) Proposals which provide a second fulltime aural reception service to a community;
- 3) Proposals which provide a first aural transmission service to a community; and,
- 4) Proposals that serve other public interest benefits, including changes that would result in a net gain of service or reduction in potential interference.

The second and third priorities are equal in importance. 6/ A proposal that satisfies a higher priority is uniformly adopted over any competing proposal. 7/

The Counterproposal satisfies the third allotment priority – it would provide a first aural transmission service to Buttonwillow, California, which, as a

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Channel 282A. See Supplement at 3. On April 19, 2002, the Audio Division issued a Notice of Proposed Rule Making, DA 02-908 (the "Notice") that requested comments on AGM's proposal to substitute Channel 226A for Channel 282A at Shafter, California, and to modify the license of KCOO accordingly. The Notice specified that any counterproposals were due as of June 14, 2002. Accordingly, this Counterproposal is timely filed.

5/ See Engineering Exhibit at 3. However, the Petition's proposed allotment – from Channel 282A to Channel 226A – is not mutually exclusive with the existing allotment and thus is not governed by Section 1.420(i) of the Commission's Rules.

6/ See *Revision of FM Assignment Priorities and Procedures*, Report and Order, 90 FCC 2d 88 (1982).

7/ *Id.*

census designated place, presumptively merits its own local transmission service. <sup>8/</sup> Independent of this established presumption, Buttonwillow demonstrates more than sufficient hallmarks of a distinct community under Commission precedent: 1) it has a substantial year-round population; 2) it has its own eponymous school – the Buttonwillow Union Elementary School; 3) it has its own government services, including the Buttonwillow Fire Department, the Buttonwillow Library and a post office; 4) it has its own businesses and medical services; 5) it has its own religious organizations; and 6) it is distinct from any urbanized area: the nearest major city – Bakersfield – lies 26 miles away, and zero percent of the Bakersfield Urbanized Area will be within the proposed allotment's 70 dBu contour.

While the Counterproposal would further allotment priority three, the Initial Proposal, at best, potentially furthers the Commission's fourth allotment priority. Specifically, the Initial Proposal would not bring a first or second aural reception service to any community, and thereby would not advance priority one or two. The Initial Proposal would not serve allotment priority three because it would not result in a new community obtaining its first local transmission service:

Shafter, California, already is served by two FM stations (KSMJ and noncommercial FM station KGZO) besides KCOO, and a construction permit

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<sup>8/</sup> See, e.g., *West Hurley And Rosendale, New York, North Canaan and Sharon, Connecticut*, Notice of Proposed Rule Making and Order to Show Cause, 12 FCC Rcd. 11978 (Allocations, 1997) ("Commission policy, as set forth in *Revision of FM Assignment Policies and Procedures*, states that Section 307(b) of the Communications Act requires that allotments be made to 'communities' which has been defined as geographically identifiable population groupings. This requirement

application is pending for an additional Shafter FM station. 9/ Since the Counterproposal advances the Commission's third allotment priority, the Counterproposal must be adopted over the Initial Proposal, which, at most, *arguendo*, potentially furthers only the Commission's fourth allotment priority. 10/

Because a third allotment priority proposal trumps a proposal under the fourth priority, the Commission need not determine whether in fact the Initial Proposal serves allotment priority four. Nonetheless, CCBL observes that AGM has not established how allotment priority four – other public interest benefits – would be furthered by the Initial Proposal. Under the Initial Proposal, where AGM is proposing the substitution of a channel of the same class – 226A for 282A – ABM could not assert an allotment preference, as “it is well established that the Commission generally considers channels of the same class to be equivalent for allotment purposes . . . .” 11/ Indeed, the presumption of equivalency for channels of the same class applies unless “showings are made that a station operating on

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[is] deemed to have been met if the place were incorporated or listed in the census.” (citation omitted)).

9/ See FCC File No. BNPED-20000518ACI.

10/ See, e.g., *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Corpus Christi and Three Rivers, Texas)*, Report and Order, 8 FCC Rcd 1375 (Allocations, 1993) (adopting proposal to allot a Class C3 channel as a first local aural transmission service, which serves allotment priority three, in lieu of a proposed Class C2 upgrade for an existing Class A allotment, which serves allotment priority four).

11/ *Chester, Shasta Lake City, Alturas, McCloud, Weaverville, and Shingletown California*, Memorandum Opinion & Order, 13 FCC Rcd. 8549 at ¶13 (Policy and Rules, 1998)

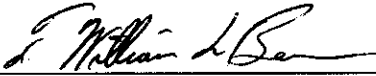
that channel cannot be constructed for reasons such as aeronautical hazards or environmental effects.” 12/ AGM has made no such showing. 13/

### Conclusion

Simply put, the Counterproposal must be adopted in lieu of the Initial Proposal because the Counterproposal would advance a third allotment priority over, at best, an asserted fourth allotment priority. Accordingly, the Division should reject the Initial Proposal, which would preclude the provision of a first local transmission service on Channel 226A to Buttonwillow, California, in favor of the Counterproposal.

Respectfully submitted,

**CLEAR CHANNEL  
BROADCASTING LICENSES, INC.**

By:   
Marissa G. Repp  
F. William LeBeau

HOGAN & HARTSON L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004-1109  
(202) 637-5600

Its Attorneys

June 14, 2002

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12/ *Id.* (citing *Vero Beach, Florida*, 3 FCC Rcd 1049 (1998), *rev. denied*, 4 FCC Rcd 2184 (1989)).

13/ To the contrary, AGM has specified in its Petition allotment reference coordinates for Channel 226A that meet the minimum distance separation rules and from which a Class A station would provide a city grade (70 dBu) signal over the entire community of Shafter on Channel 282A – the existing allotment. *See* Engineering Exhibit at 3. Thus, by definition, there is an available location by which Shafter can be served on Channel 282A.

## **EXHIBIT 1**

## **Buttonwillow Union School District**

400 McKittrick Hwy.  
Buttonwillow, CA 93206

(661) 764-5248

### **Buttonwillow School**

400 McKittrick Hwy.  
Buttonwillow, CA 93206

(661) 764-5248

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(661) 764-5484200 1st St  
**Buttonwillow, CA** [Map](#)**First Baptist Church**  
(661) 764-6931332 Willow St  
**Buttonwillow, CA** [Map](#)**Senior Nutrition Taft**  
(661) 764-5913131 E 1st St  
**Buttonwillow, CA** [Map](#)**St Mary's Catholic Church**  
(661) 764-5486420 Main  
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(661) 758-2263277 E Front St  
**Buttonwillow, CA** [Map](#)**Buttonwillow Physicians**  
(661) 764-5566**Buttonwillow, CA** [Map](#)**Comelli, Ruben MD - National Health Svc Inc**  
(661) 764-5211277 E Front St  
**Buttonwillow, CA** [Map](#)**Michael, Wagih H DDS - National Health Svc Inc**  
(661) 764-6318277 E Front St  
**Buttonwillow, CA** [Map](#)**Molnar, Georgetta DDS - National Health Svc Inc**  
(661) 764-5211277 Front St  
**Buttonwillow, CA** [Map](#)**National Health Svc Inc**  
(661) 764-5211277 Front St  
**Buttonwillow, CA** [Map](#)**Wasco Internal Medicine Group**  
(661) 764-5955290 A Main St  
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(661) 764-637720673 Tracy Ave  
**Buttonwillow, CA** [Map](#)**Carl's Jr Restaurant**  
(661) 764-630220640 Tracy Ave  
**Buttonwillow, CA** [Map](#)**Chon's Pizza**  
(661) 764-5100110 N Main St  
**Buttonwillow, CA** [Map](#)**Denny's**  
(661) 764-591120667 Tracy Ave  
**Buttonwillow, CA** [Map](#)**Farmer's Deli**  
(661) 764-682427770 Lagoon Dr  
**Buttonwillow, CA** [Map](#)**Frosty King Drive In**  
(661) 764-5739332 E Front St  
**Buttonwillow, CA** [Map](#)**Mc Donald's**  
(661) 764-648820700 Tracy Ave  
**Buttonwillow, CA** [Map](#)**Subway Sandwiches & Salads**  
(661) 764-959020661 Tracy Ave  
**Buttonwillow, CA** [Map](#)**Titas Pupuseria & Restaurant**  
(661) 764-9351380 Front  
**Buttonwillow, CA** [Map](#)**Travel Centers Of America**  
(661) 764-526627769 Lagoon Dr  
**Buttonwillow, CA** [Map](#)**Willow Ranch**  
(661) 764-660527770 Lagoon Dr  
**Buttonwillow, CA** [Map](#)Showing 1-11 of 11 | [Beyond Buttonwillow](#)



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(661) 764-60114236 Cannon St  
**Buttonwillow, CA** [Map](#)**Discount Store**  
(661) 764-5495106 Front St  
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**EXHIBIT 2**  
**(ENGINEERING EXHIBIT)**

## TECHNICAL EXHIBIT

### COUNTERPROPOSAL FOR RULE MAKING TO AMEND THE FM TABLE OF ALLOTMENTS

BUTTONWILLOW, CALIFORNIA

#### Technical Narrative

This technical narrative and accompanying Figures have been prepared by Clear Channel Broadcasting Licenses, Inc. ("CCBL"), in support of a Counterproposal for Rule Making to allot channel 224A to the community of Buttonwillow, California (the "Counterproposal"). This Counterproposal is mutually exclusive to the pending proposal by American Media General, Inc. (the "Petitioner") to change the channel of KRFR(FM) (formerly KCOO(FM)), Shafter, California (the "station" or "KCOO") from channel 282A to channel 226A.

The following is a summary of the merits of this Counterproposal:

- The community of Buttonwillow, California (2000 Census population 1,266 persons) will be provided with its first local aural transmission service.
- The proposed channel 224A allotment site at Buttonwillow, California satisfies the Commission's allocations spacing rules.<sup>1</sup>
- This Counterproposal does not preclude continued service on channel 282A to Shafter, California. The reference coordinates specified by Petitioner for

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<sup>1</sup> Proposed allotment coordinates for 224A at Buttonwillow, CA are 35° 29' 21" North, 119° 25' 02" West. See this Exhibit under the heading "Compliance With FCC Rules" for details on allocations considerations with respect to this site. Also see Figure 1 accompanying this Exhibit for the allocations spacing study.

Shafter, California are fully spaced for operation of both the proposed allotment of channel 226A and the current allotment on channel 282A<sup>2</sup>. As both the existing and proposed channels for Shafter also provide city grade coverage to 100% of Shafter from these coordinates, there is no distinction between the existing and proposed channels for Shafter for allotment purposes<sup>3</sup>.

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<sup>2</sup> The reference coordinates proposed by the Petitioner are 35° 30' 06" North, 119° 16' 18" West.

<sup>3</sup> See *Figure 4* accompanying this Exhibit for the allocations spacing study for channel 282A at Shafter, California.

Proposed Change in the FM Table of Allotments

Buttonwillow, California is located in Kern County, California, and has a 2000 U.S. Census population of 1,266 persons. Buttonwillow has no local FM or AM aural broadcast service and, therefore, the Counterproposal would bring a first local aural broadcast service to Buttonwillow.

Accordingly, CCBL requests modification of the FM allocation table as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Buttonwillow, CO	-	224A

Compliance With FCC Rules

The attached *Figure 1* is a tabulation of required separations pertinent to use of channel 224A at Buttonwillow, California. The reference site complies with the Commission's minimum distance separations contained in Section 73.207 of the FCC's rules to all existing, authorized and proposed stations and allotments, with the single exception of the Petitioner's proposal to modify the allotment for channel 282A at Shafter, California, to channel 226A<sup>4</sup>.

With regard to Buttonwillow, operation from the channel 224 reference site utilizing standard class A facilities will provide the requisite city grade (70 dbu) signal to all of Buttonwillow.<sup>5</sup> *Figure 3* is a map which was developed using the 2000 U.S. Census Topologically Integrated Geographic Encoding and Referencing (TIGER) Line files which depicts the city grade coverage (70 dbu) contours based on class A facilities (ERP 6 kW/HAAT 100 meters) at the proposed allotment site. As shown, all (100%) of Buttonwillow is located within the 70 dBu city

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<sup>4</sup> See *Figure 1*. The proposed reallocation for Shafter is not mutually exclusive with the current allotment of channel 282A at Shafter, or the KCOO license.

<sup>5</sup> See *Figure 3* herein.

grade contour. Buttonwillow is located 10.7 kilometers from the proposed channel 224 allotment site.

In response to the Petitioner's proposal, CCBL has determined that the reference coordinates specified by the Petitioner for channel 226A at Shafter also will satisfy all pertinent FCC requirements for continued operation on KCOO's current channel, 282A. See *Figure 4* for a spacing study for channel 282A at the channel 226A allotment site proposed by the Petitioner.

Operation on channel 282A from the reference site proposed by Petitioner utilizing standard class A facilities will provide the requisite city grade (70 dbu) signal to all of Shafter.<sup>6</sup> *Figure 5* is a map which was developed using the 2000 U.S. Census Topologically Integrated Geographic Encoding and Referencing (TIGER) Line files which depicts the city grade coverage (70 dbu) contours based on class A facilities (ERP 6 kW/HAAT 100 meters) at the proposed KCOO channel 282 allotment site. As shown, all (100%) of Shafter is located within the 70 dBu City Grade contour.

#### Urbanized Area Considerations

The proposed Buttonwillow channel 224A 70 dbu contour will encompass no Urbanized Areas.

#### 60 dbu Gain Area

There will be 68,662 persons residing within the proposed Buttonwillow 224A 60 dbu contour. All of these persons would gain a new 60 dbu service from the new channel 224 allotment proposed herein.

Since the Buttonwillow allotment is a new service, there is no 60 dbu loss area associated with this proposal.

#### Coverage Contours

The FM predicted coverage contours provided with this Exhibit were calculated in accordance with the provisions

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<sup>6</sup> See *Figure 5* herein.

of 47 C.F.R. Section 73.313, except that, in accordance with current FCC practice, uniform terrain was assumed in all directions.

#### Population and Area

The population within the FM primary service contour (1 mV/m) was calculated using a computer program that utilizes the 2000 U.S. Census database of "population centroids". The program adds the populations of those U.S. Census designated areas whose centroid lies within each service area.

#### Conclusion

Channel 224A can be allotted to Buttonwillow, California, in compliance with all applicable Commission rules. The community of Buttonwillow, California would be provided with a first local aural transmission service, and the community of Shafter, California will continue to have local aural service from three radio stations<sup>7</sup>, including the current channel 282A operation. Therefore, CCBL requests that the allotment of channel 224A to Buttonwillow, California be adopted.

Respectfully submitted,



Stephen G. Davis  
Senior Vice President  
Clear Channel Broadcasting Licenses, Inc.

2625 South Memorial Drive, Suite A  
Tulsa, Oklahoma 74129  
(918) 664-4581

June 13, 2002

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<sup>7</sup> Shafter is currently served by KCOO (FM), the channel 282A operation discussed herein, KSMJ (FM) and KGZO (FM).

*Table of Figures Accompanying this Exhibit*

Figure 1	Allocations Spacing Study for Channel 224A at Buttonwillow
Figure 2	Channel 224A 60 dbu Contour
Figure 3	Channel 224A Proposed 70 dbu Contour
Figure 4	Spacing Study for Channel 282A at Shafter, California
Figure 5	Channel 282A 70 dbu Coverage of Shafter, California from Reference Coordinates

Figure 1  
Allocations Spacing Study

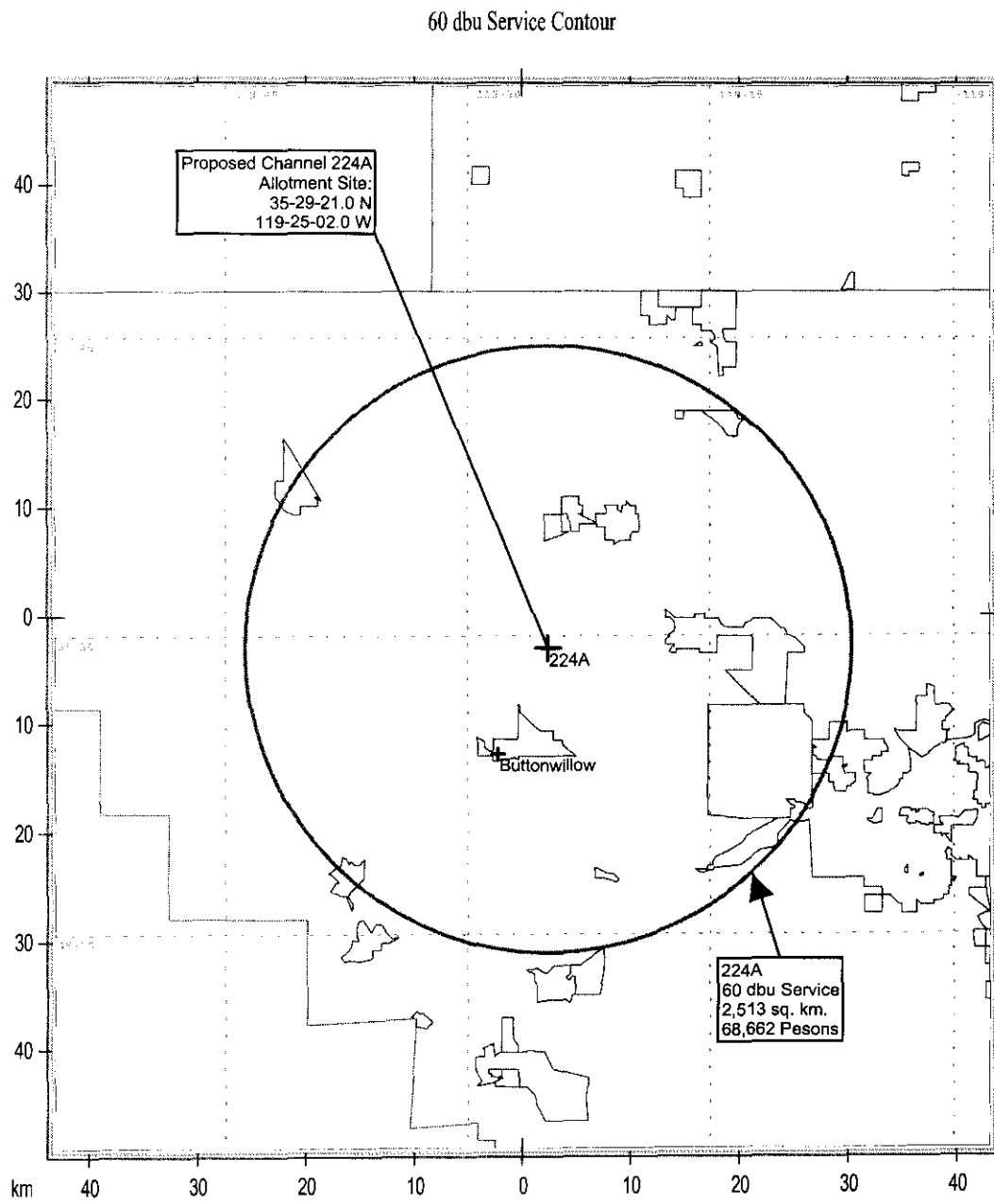
Channel 224A at Buttonwillow, CA

REFERENCE	CLASS = A	DISPLAY DATES
35 29 21 N		DATA 06-09-02
119 25 02 W		SEARCH 06-12-02

----- Channel 224 - 92.7 MHz -----

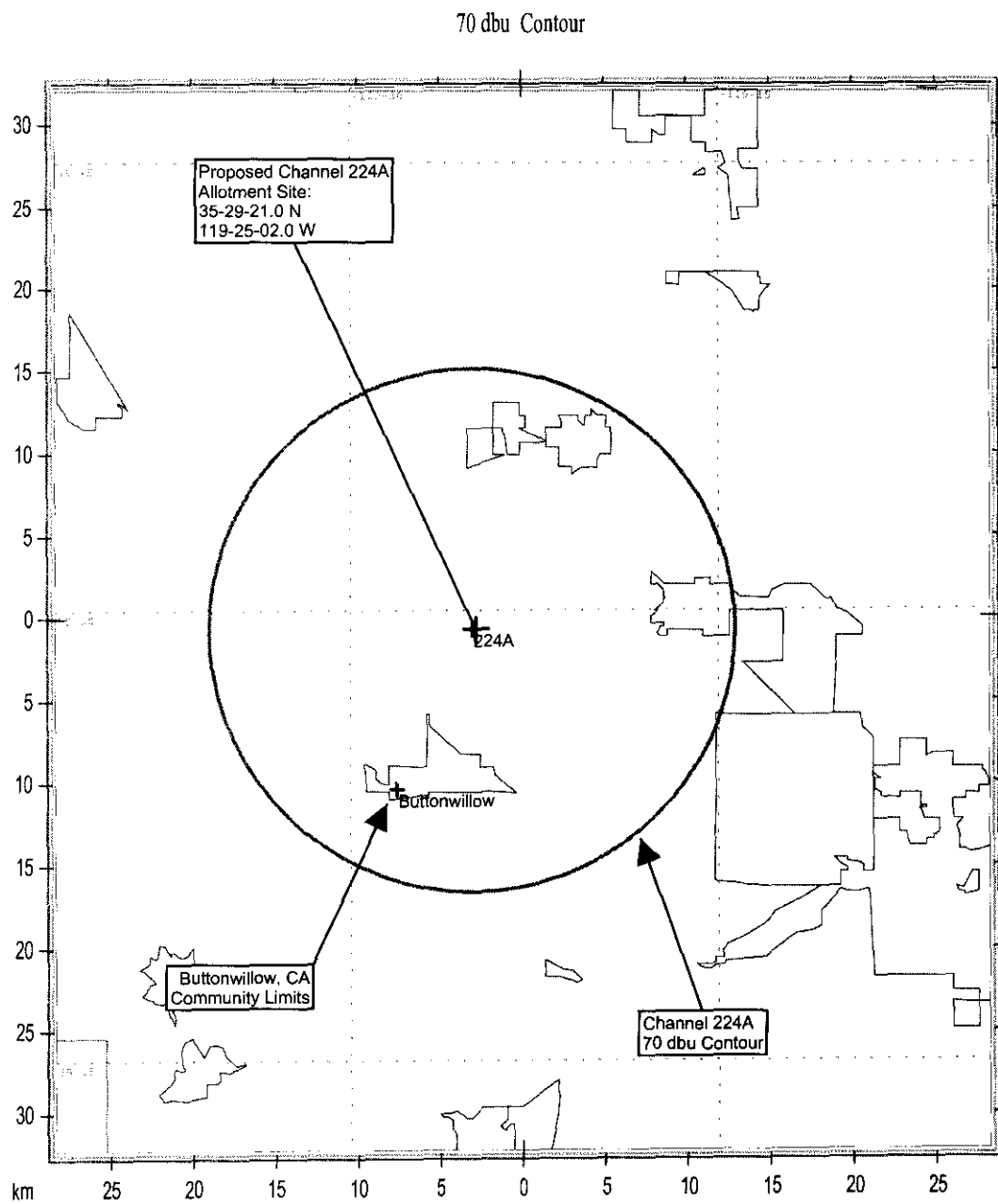
Call	Channel	Location	Dist	Azi	FCC	Margin
-----						
RADD	ADD 226A	Shafter	CA 13.28	83.9	31.0	-17.72
KMYXFM	LIC 223A	Arvin	CA 72.19	116.7	72.0	0.19
KWSR	LIC 223B	Paso Robles	CA 113.38	263.1	113.0	0.38
KZIQFM	LIC 224B1	Ridgecrest	CA 155.89	90.0	143.0	12.89
KIWI	LIC 221A	Bakersfield	CA 47.92	90.2	31.0	16.92
KFSOFM	LIC 225B	Visalia	CA 134.25	18.4	113.0	21.25
KMLT.C	CP 224A	Thousand Oaks	CA 152.60	159.3	115.0	37.60
KMLT	LIC 224A	Thousand Oaks	CA 154.30	162.1	115.0	39.30
Accepted By Mexico as Class B on 940215						
ALLO	RSV 224A	Ridgecrest	CA 157.67	84.0	115.0	42.67
KJEE	LIC 225A	Montecito	CA 115.98	191.8	72.0	43.98
Notified to Mexico 971114						
KZOZ	LIC 227B	San Luis Obispo	CA 113.38	263.1	69.0	44.38
Grandfathered at 29.5 kw @ 436 m HAAT or equivalent.						
KZIQFM	CP 224A	Ridgecrest	CA 161.48	84.5	115.0	46.48
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FCC Uniform Terrain ("Flat Earth") Method

County Borders State Borders City Borders Lat/Lon Grid



Service to Buttonwillow, CA

County Borders State Borders City Borders Lat/Lon Grid

Map Scale: 1:407736 1 cm = 4.08 km V/H Size: 64.50 x 56.57 km

FCC Uniform Terrain ("Flat Earth") Method

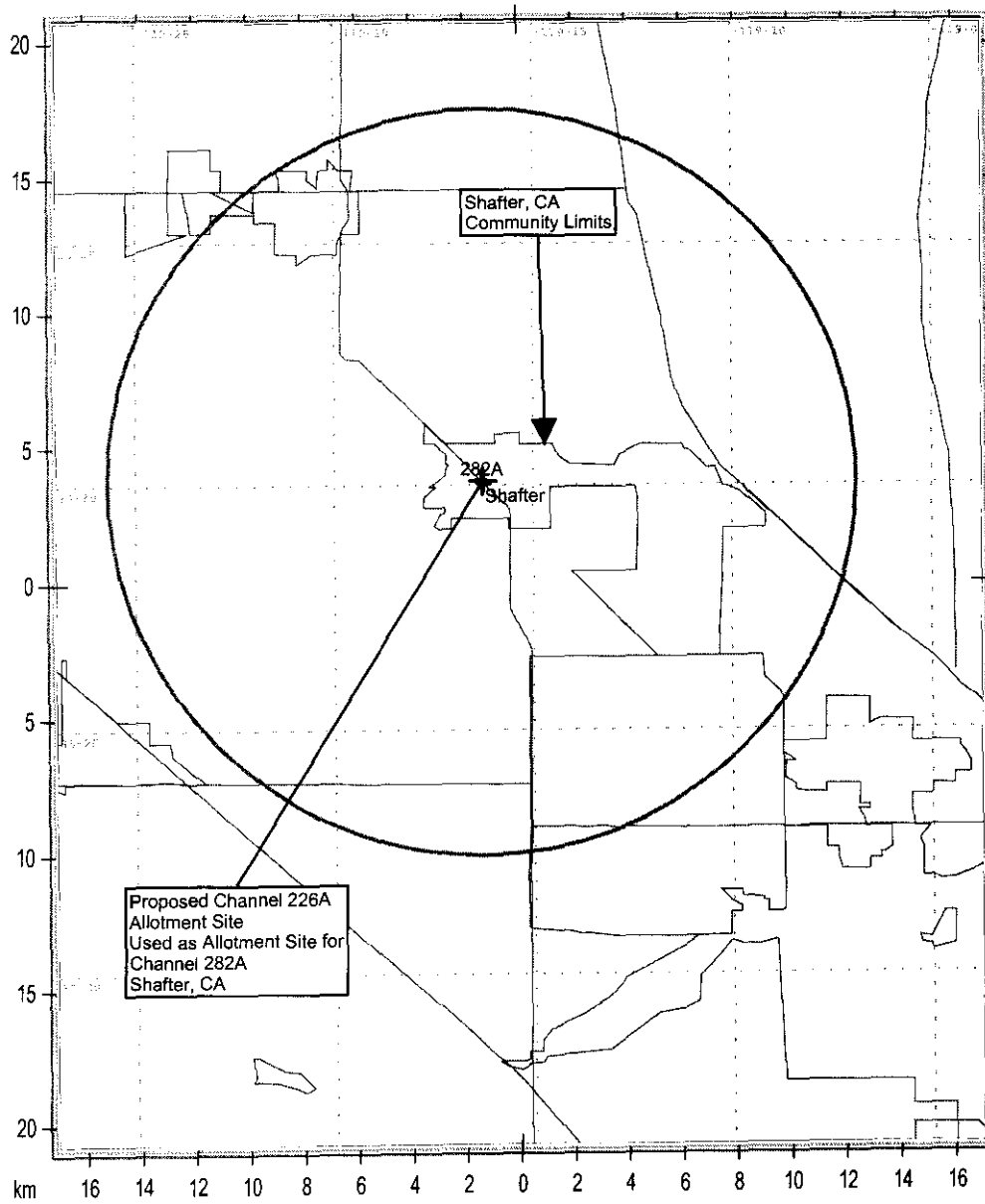
Figure 4

Channel 282 (104.3 MHz Class A) at 35-30-06.0 N, 119-16-18.0 W.

Allocations Spacing Study Tabulation

CALL	CITY	ST	CHN	CL	DIST	S	BRNG	CLEARANCE
KBIG-FM	LOS ANGELES	CA	282	B	179.31	178	141.9	1.31
KBIG-FM	LOS ANGELES	CA	282	B	179.31	178	141.9	1.31
KBIG-FM	LOS ANGELES	CA	282	B	179.31	178	141.9	1.31
KVLI-FM	LAKE ISABELLA	CA	283	A	76.78	72	79.7	4.78
KVLI-FM	LAKE ISABELLA	CA	283	A	76.78	72	79.7	4.78
KBDS	TAFT	CA	280	A	43.41	31	204.8	12.41
KIQO	ATASCADERO	CA	283	B	126.66	113	263.3	13.66
KIQO	ATASCADERO	CA	283	B	126.67	113	263.3	13.67
KIQO	ATASCADERO	CA	283	B	126.67	113	263.3	13.67
KBDS	TAFT	CA	280	A	45.88	31	201.8	14.88
KFRR	WOODLAKE	CA	281	B	129.38	113	13.1	16.38
KNAC	EARLIMART	CA	228	A	42.44	10	0.4	32.44
KCRZ	TIPTON	CA	285	A	63.78	31	342.5	32.78

Channel 282A 70 dbu Coverage to Shafter, California



From Proposed Allotment Site

State Borders    City Borders    Highways    Lat/Lon Grid

Map Scale: 1:262330 1 cm = 2.62 km V/H Size: 41.50 x 34.13 km

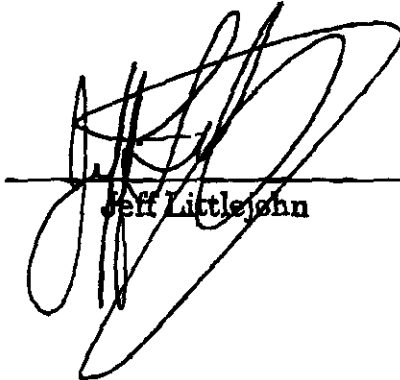
Contour using FCC "Flat Earth" (Uniform Terrain) Method

## DECLARATION

I, Jeff Littlejohn, declare as follows:

1. I am Senior Vice President, Engineering, of Clear Channel Broadcasting Licenses, Inc. ("CCBL").
2. CCBL intends to apply for a construction permit for a new FM station to operate on Channel 224A at Buttonwillow, California, upon adoption of the Counter proposal as outlined herein.
3. If awarded the construction permit for Channel 224A, at Buttonwillow, California, CCBL promptly will construct and operate such facilities.

I hereby declare under penalty of perjury that the statements made in this declaration are true and accurate to the best of my knowledge, information and belief.



Jeff Littlejohn

June 12th, 2002

## CERTIFICATE OF SERVICE

I hereby certify that, on this 14<sup>th</sup> of June, 2002, I have caused a copy of the foregoing Counterproposal and Comments to be delivered, by first-class mail, to the following:

Vincent J. Curtis, Jr.  
c/o Fletcher, Heald & Hildredth  
1300 North 17<sup>th</sup> Street  
Arlington, VA 22209-3801.



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F. William LeBeau